

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DEMETRIUS D. HUFF,

Petitioner,

vs.

B. CURRY, Warden,

Respondent.

No. C 08-0297 PJH (PR)

**ORDER FOR SUPPLEMENTAL
BRIEFING; DENIAL OF
PETITIONER'S MOTION FOR
APPOINTMENT OF COUNSEL**

This is a habeas case directed to a denial of parole. Petitioner has moved for appointment of counsel.

The Sixth Amendment's right to counsel does not apply in habeas corpus actions. *Knaubert v. Goldsmith*, 791 F.2d 722, 728 (9th Cir. 1986). However, 18 U.S.C. § 3006A(a)(2)(B) authorizes appointment of counsel to represent a habeas petitioner whenever "the court determines that the interests of justice so require and such person is financially unable to obtain representation."

Petitioner has presented his claims adequately in the petition, and they are not particularly complex. The interests of justice do not require appointment of counsel. The motion for appointment of counsel (document number 9 on the docket) is **DENIED**.

The Ninth Circuit has recently decided *Hayward v Marshall*, in which important issues relating to federal review of parole decisions were raised. *Hayward v Marshall*, No. 06-55392, 2010 WL 1664977 (9th Cir. April 22, 2010). The parties will be afforded an opportunity to address the impact of the *Hayward* en banc decision on this case.

Respondent must send petitioner a copy of the *Hayward* en banc decision within ten days of the date this order is entered. Within thirty days of the date this order is entered,

respondent must file and serve a supplemental brief on the impact of *Hayward* on this action. If petitioner desires to respond to the supplemental brief, he shall do so by serving and filing a supplemental brief within thirty days of the date respondent's brief is served upon him.

IT IS SO ORDERED.

Dated: May 13, 2010.



PHYLLIS J. HAMILTON
United States District Judge